

LETTER OPINION
93-L-161

May 20, 1993

Mr. Thomas W. Robb
Sioux County State's Attorney
PO Box L
Fort Yates, ND 58538-0529

Dear Mr. Robb:

Thank you for your April 29, 1993, letter inquiring whether a board of county commissioners has the authority to interview potential assistants, or prevent the rehiring of a particular assistant, for the county officers named in N.D.C.C. ? 11-10-11.

North Dakota Century Code ? 11-10-11 provides:

11-10-11. Appointment and salary of deputies and clerks. The salaries of deputies, clerks, and assistants for the county auditor, county treasurer, sheriff, register of deeds, county judge, clerk of the district court, and state's attorney must be fixed by a resolution of the board of county commissioners. Each of the named officers may appoint such deputies, clerks, and assistants, in accordance with the budget, except none of the officers mentioned in this section may appoint as deputy any other officer mentioned in this section. The number and compensation of deputies, clerks, and assistants for a clerk of district court which is funded by the state pursuant to section 11-17-11 must be set by the supreme court.

N.D.C.C. ? 11-10-11 enables the board of county commissioners to determine the salaries of assistants for various named county officers. "Each of the named officers may appoint such . . . assistants, in accordance with the budget. . . ." N.D.C.C. ? 11-10-11. This provision clearly indicates that the authority to appoint or hire assistants lies with the named officers and not with the board of county

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commissioners. The board of county commissioners has the authority to determine the assistant's salary.

Because the authority to appoint or hire an assistant lies with the named officers, the interviewing of potential assistants and rehiring decisions lie with the named officers, and not with the board of county commissioners.

Therefore, it is my opinion that a board of county commissioners does not have the authority to interview potential assistants, or prevent the rehiring of a particular assistant, for the county officers named in N.D.C.C. ? 11-10-11.

Sincerely,

Heidi Heitkamp
ATTORNEY GENERAL

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